

TOWN COUNCIL MINUTES
May 6, 2002

This meeting of the Malabar Town Council was held at the Town Hall at 2725 Malabar Road.

ROLL CALL:	MAYOR/CHAIR:	PHILLIP CREWS
	VICE-CHAIR:	CHARLENE HORTON - EXCUSED
	COUNCIL MEMBERS:	BOBBI MOCCIA
		BOB ROSSMAN
		NANCY TINIO-BORTON
		STEVE RIVET
	ADMINISTRATOR:	WILLIAM HALL
	ATTORNEY:	CLIFF MCCLELLAND
	CLERK:	SUSAN KABANA

Also present were Jim Phelps, Building Official.

The meeting was called to order at 7:30pm by the Mayor. The prayer and pledge were lead by the Mayor

ADDITIONS AND DELETIONS TO AGENDA: None.

**PRESENTATION: ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
PROGRAMS AND PROJECTS UPDATE**

Marguerita Engle – is the intergovernmental coordinator for this area. States that the District has four areas of responsibility – flood protection, water supply, water quality, and operational efficiency. SJRWMD functions include permitting, research, restoration projects, and environmental education. Tonight's update will cover water supply and water quality issues.

Water Supply: In 1991 the District established the water conservation rule which requires the efficient use of water on a year-round basis. The district-wide watering restrictions that went into effect at that time are still in effect. In January 2001 the District announced a severe water shortage for east central Florida and imposed phase II water restrictions. Those restrictions continue to be in effect for the users of the Cocoa water supply. It may not directly effect Malabar but it is still important to Brevard County as a whole.

The draught last year was labeled and 'exceptional' draught, expected only to occur once every 100-200 years. The impact of that draught has not yet been made up. The rain fall this spring is similar to last spring – it is significantly below normal. She notes that when there is abundant rain followed by draught the water supply cannot regenerate with the millions of gallons of demand placed on it. When it does rain 65% of that evaporates, so only a small percentage of rain actually regenerates the ground and surface water.

In April 2000 the District approved its first regional water supply plan – called Water 2020. Once this plan was approved the information collected through the permitting process indicates that 90% of the projected year 2020 demand for public water supply use in east central Florida will be needed by 2006. Which means that projections are significantly ahead of schedule. These numbers indicate that alternative water sources are needed between 2002 – 2005. They continue to work on alternative water supplies and conservation methods.

At the East Central Florida water summit in January the theme was water supply regional management and water supply solutions. And it was announced that stormwater management, waste water management, and water supply are three issues we all face and it was recommended that these three be jointly managed and integrated. The East Central Florida Water Supply Planning Division, which was a result of the summit, met with the Brevard County Water Supply Board in April, and the first sub-regional meeting for Brevard, Oseola, and Orange County will be held May 22nd. The initiatives resulting from that meeting will be released in November.

We must all work together and the demand for new water must be reduced by increasing water conservation and the use of reclaimed water. There are many opportunities for conservation and alternative water supply cost-sharing. Conservation projects and feasibility studies require only a letter and they are on a first-come, first-serve basis.

Water Quality: has two issues 1) the Army Corps of Engineers has joined forces with the District to develop the Indian River Lagoon North Restoration Feasibility Study and project management plan. The feasibility study will be a comprehensive evaluation of the IRL area from Ponce Inlet to Fort Pierce Inlet to determine the types of modification needed to restore water quality and ecological conditions. The project management plan will determine the study cost, establish the scope, and set the schedule. When the study is complete the District will ask Congress for approval and funding. It is a lengthy process and takes 5 –7 years before construction will begin.

Issue 2): Is the National Pollutant Discharge Elimination program, which is a DEP program and something that the District is involved in because it involves stormwater and water shed. Any municipal storm sewer system (MS4) not already covered under phase one will be required to obtain a NPDPS permit from DEP by March 2003. Along with the permit a storm water management plan has to be passed and fully implemented by 2008.

The storm water management plan will include six minimum control measures, evaluation methods, and record keeping. The six control measures are: public education, public participation, illicit discharge and elimination, construction site stormwater control (from 1 to 5 acres), post-construction controls, and pollution prevention/good housekeeping for municipal operations. Along with that best management practices, measurable goals, timing and frequency of actions, and responsible persons have to be identified for each of those measures. Of the six measures the illicit discharge detection and elimination will require the greatest amount of our resources.

Malabar has been proactive in developing a stormwater master plan, installing stormwater drain markers and, stormwater drainage and recovery systems. Most programs are done in partnership with the Water Management District.

If Malabar has not yet begun working on the NPDPS permitting process this is a good time to start. The process is very expensive.

The upshot of these programs is that they will clean up our water supply. Engle thanks Council for their time and Tinio-Borton for being the Council liaison.

CONSENT AGENDA:**MOTION: Tinio-Borton/Rivet to approve. VOTE: All aye.****REPORTS:****ATTORNEY:** Nothing at this time.**ADMINISTRATOR:**

- On May 20th we will use prisoners and public works to remove the pepper trees at Malabar Road and US1 so the view will be open to the river.
- Thursday and Friday this week Hall will be at an employment seminar.
- Notes that the BML property will be on the County Commission agenda tomorrow.

CLERK:

- There will be a budget adjustment and a presentation on our in-house network at the next Council meeting.

ACTION ITEMS:**1. RECOMMENDATION FROM PARK BOARD TO RECOGNIZE FOOD CONTRIBUTIONS AND COOKS FROM MALABAR DAY**

MOTION: Rossman/Rivet to approve plaques for food vendors from Malabar Day. VOTE: All aye.

2. JOHNSTON AVENUE: REQUEST FOR BID

Hall – this is a request of Council to begin the bid process. Hall explains the bid process to Council. Rivet – feels that our ordinance makes it difficult to build, perhaps posting a bond would be more realistic than 120% in cash. Hall – cost has been a recent issue with our engineer and Frazier is looking at ways of reducing it. Phelps – the engineer is basically requiring less crushed coquina rock while still building a stable road bed. Frazier has done this with this current application. Rivet – does not want to see the road standard less but feels that something could be done.

Hall – in the early 90's Malabar only required bonds, then a land owner filed for bankruptcy and Malabar was forced to finish the road. After this repeating itself again a year later, the Council established a cash bond. Rivet – why does Malabar have to finish the road? Hall – because the Town is the one with the contract with the builders. Rivet – then the resident could have the contract. Hall – but the construction is in the Town ROW. Rivet – he feels that we are making it tough to build but we need the tax base.

Crews – did we acquire new ROW on Johnston? Hall – yes.

MOTION: Rossman/Moccia to approve bid process to begin. VOTE: All aye.

3. LUCINDA ZINDEL, 1533 WEIR STREET, BUILDING PERMITS AND POLICIES AND PROCEDURES

Zindel – trying to add on to her house has been a nightmare. Feels she has hit so many road blocks in attempting to do this renovation that she is not sure if the Town wants her to build or just go away. The Certificate of Unity of Title dispute held her up for two months. She is trying to be her own contractor and feels that during the permitting process the town should be more helpful. Questions should be answered quickly and when the code is cited it should be shown in print.

Tinio-Borton – does Vivians position take some of the weight off of Phelps? Phelps – yes, she has a lot of information she can pass out and assist customers with. Tinio-Borton – all types of contractors are cringing when they hear their customers live in Malabar. She hears this from contractors as well as from patrons to her restaurant, this really worries her, she hates this type of feedback. She would like to see Malabar's building department be more user friendly. Phelps – the new building code has everyone in a tizzy and that has made it difficult to do business.

Rossman – echo's Tinio-Borton's sentiments. Rivet – before becoming a council member he did not have an issue with getting information from the building

department, he found all the staff helpful. He notes that there is always going to be conflict between contractors and the building official.

Mayor – has asked the attorney for a punch list for citizens as to what they need in order to build so as to solve some of the information flow problems.

Rossman – in the last two months he has had a lot of negative feedback regarding the Malabar building department. Some of it was from contractors who said they would not build in Malabar. Rossman is concerned about pool alarms and some building department procedures.

Rossman – would like an explanation as to why we use a Certificate of Unity of Title. Phelps – the Town was experiencing difficulty with individuals owning two lots and building a house on one lot and a barn on the other lot, then selling the lot that has the barn, thus creating a non-conforming lot. Also, there are people who choose to build their house close to the property line because they own more than one lot, then sell the adjoining lot and end up creating a non-conformity because they do not have the proper setbacks. The unity of title is not something Phelps came up with it is something our past attorney came up with. It was a solution to a problem, it may not be the only solution. Rossman – sees no need for it if we require that the setbacks conform to each individual lot, that way a non-conformity is not created. He does not feel that the unity of title is legal.

Mayor – is concerned about requiring Zindel to provide a unity of title when he is not sure we can enforce the requirement. Bohne – anyone can prepare a unity of title and then de-unify after the fact. He thinks this was done so that something was in the file documenting the facts. It can be easily circumvented by the property owner and we should not be concerned about someone owning a non-conforming lot down the road.

Rossman - feels that we need to study this issue and see what we can do to address it and fix it if we can. In the last two months he has had 20 to 25 people complain to him about the attitude of the building department and the inflexibility. Also there is the appearance that one person is being treated better than another. Feels that many contractors won't build in this town because of the difficulty in the building department.

Tinio-Borton – has mixed emotions, she knows how difficult it is to tell someone they cannot do something but she also knows that she hears a lot of negative comments.

Moccia – has heard like comments. When a citizen called her for help Moccia instructed them to call Phelps and the citizen said they could not do that because they were concerned about talking to Phelps. But she also knows that there can be citizen errors which cause bad will, but that doesn't belie the fact that people feel they can't talk to Phelps.

Hall – do you see problems in the building department or town hall? Tinio-Borton & Rossman – the building department. Tinio-Borton – would like to see the front person in the building department screen more questions. Hall – asks Council to call him when they hear complaints so that he can investigate and solve these issues before they escalate. He also notes that Phelps is in a unique position because if he lets someone violate the code and someone gets hurt then Phelps could lose his license from the state and be out of a job. But this is obviously a concern of Council and Hall will address this issue.

Discussion of pool alarms.

Zindel – has incurred attorney costs due to lengthy process and the certificate of unity of title – would like Council to waive her building permit fee. Bohne – some of those costs may be legitimate attorney costs. Council – is concerned about setting a precedence and respectfully declines her request.

PUBLIC COMMENT:

Bill Withers, Candy Lane – notes that he has never had a problem getting answers from town hall, building department or otherwise. Also he wants to give council a heads-up regarding some undeveloped land on Weber Road. Withers is trying to buy a piece of property at Weber and Hall and his realtor told him that a developer would like the same parcel as well as some land north of that in order to build a subdivision on quarter acre lots.

Withers then informs Council of the Brevard Tomorrow 5-year plan.

REPORTS:

- Rossman – while Kabana was out he feels that Debby and Vivian did an outstanding job of holding down the fort. Would like to reward them with two days off for Debby and one day off for Vivian.

MOTION: Rossman/Rivet to give Debby two paid days off and Vivian one paid day off, anytime they want, for doing such a good job while Kabana was on medical leave. VOTE: All aye.

- Rivet – what is the status of the fines for the EELS? Hall – we were negotiating with them but now that can be done. Phelps – will proceed with the fine process.

- Moccia – a citizen called her and said she left three messages at town hall about a sign at the end of Benjamin and Kramer that is turned the wrong way. Hall – will see that it is fixed. Moccia – also has had a complaint that at the same corner there are soft spots on both sides of the road. And had a call from a citizen at Quarterman and Atz who requested that the ditch be cleaned. Hall – we are cleaning down Atz and up Corey next week. Moccia – a citizen who lives at the south end of Candy Lane would like his road graded once in awhile. Hall – it is not an improved road and we do not grade unimproved roads.

- Tinio-Borton – are we set with Victor on his road? Hall – we are not because we cannot reach our dirt supplier, we may need to find a new supplier. Tinio-Borton – is there anything new from Harris wanting water? Hall – they have not contacted us at this time. Tinio-Borton – the wall at the Malabar ditch turned out so good. Also, would like to see US1 and Malabar Road beautified. Discussion of possible grant programs. Workshop to discuss beautifying Malabar is set for June 11th at 7:30pm at town hall.

- Mayor – there is a fence issue regarding a fence crossing some ROW. Phelps – that citizen is moving the fence. Mayor – is keeping the website updated, the current agenda is posted as well as the Eagle Corps patrol car. Tom Eschenberg from audience – notes that it takes about 4 hours to drive through the entire town. Mayor – is working on redesigning the web site as time allows.

Meeting adjourned at 9:50 p.m.

ATTEST:

BY:

Susan Kabana, CMC
Town Clerk/Treasurer

Mayor Phillip R. Crews, Chair

Date:
